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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Herbert M. Reynolds et al
Appl. No. : 10/035,990
Filed : December 31, 2001
Title : Design Template

Technology
Center : 2800
Grp./A.U. : 2856
Examiner : Robert R. Raevis

Docket No. : 60,598-003

REPLY TO EXAMINER'S ANSWER TO APPLICANT BRIEF ON APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

MAIL STOP: APPEAL BRIEF - PATENTS

Applicant submits the following REPLY in support of this appeal in response to the EXAMINER's ANSWER dated December 21, 2004. Applicants believe that no fee is required. However, the Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 08-2789.

Response to Examiner's Reply

Claims 1-3, 6-7, 11-16, 32-39, 51-60, and 62-65 stand finally rejected under 35 USC 102(b) as being anticipated by Kaptur, Jr. et al ("Kaptur").

In order for the Examiner's rejection to stand, the Examiner must show that Kaptur includes both the "torso section" element and the separate "cross-sectional *section*" (emphasis added) element of the claims, which together form the template

which represents the torso of a representative human being. The Examiner's main basis for his rejections is, apparently, that Kaptur includes both of these separate and distinct elements.

The Examiner is clearly wrong.

As the Examiner clearly realizes, the Kaptur device has a single piece, i.e., "back pan 108", which represents the torso. See Examiner's Answer, page 5, lines 8-10, which refers to "Kaptur's *single piece* three-dimensional back pan" (emphasis added).

The Examiner argues that the claims **do not** call for "separate" sections. This is clearly erroneous.

The claims have always included a torso section and a cross-sectional section, see for example original claim 1. Please note that in both the current claim language and the original claim language, the design template includes the torso section and the cross-sectional *section*, and not simply, a cross-section. That this element is a separate element from the torso section is clearly laid out and supported by the specification. In the illustrated embodiment of the specification, the torso section is clearly referred to by reference number 22 and shown in at least Figures 1-5, 8-12. Likewise, cross-sectional *section(s)* are clearly referred to by referenced number 100 and shown in Figures 17A-17F, 18A-18F and 19A-19F.

Again, the Examiner's assertion that the claims do not call for a "two piece design" (see Examiner's answer, page 6, lines 10-11) is clearly wrong. The claims do not simply require that the torso has a "cross-section", as the Examiner insists, but rather a separate "cross-sectional section".



Comments regarding the Examiner's Attachment "A"

The Examiner's re-rendering of the Kaptur device is clearly misleading. As discussed above, the back pan 108 of Kaptur is a single piece design which only represents the curved, outer contour of the torso. The side view on the right of the Examiner's Appendix A, which is apparently adapted from Figure 1 of Kaptur is held out as being a "cross-section" of the torso. However, the view in Figure 1 of Kaptur is a side view of the curved outer contour of the torso, i.e., the back pan 108. Since the back pan 108 is "hollow" (see Figure 6), the cross-section identified by the Examiner in the right side of his Appendix A *simply does not exist in the Kaptur reference.*

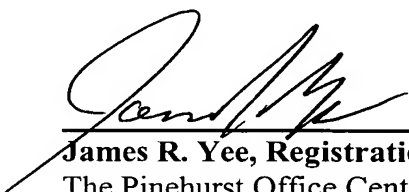
Clearly, Kaptur does not include the separate element of the torso section and the cross-sectional section as required by the currently pending claims. Therefore it is respectfully submitted that the rejections do not conform to the mandates of 35 U.S.C. §102 or the MPEP and that the rejections of the examiner should be reversed.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

January 27, 2005

Date



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CERTIFICATE OF MAILING

I hereby certify that the attached for application serial number **10/404,771** filed **December 31, 2001** is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on this **January 27, 2005**.

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